STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Amended:	**02/18/09**	Bill No:	**AB 79**
Tax:	**Property**	Author:	**Duvall**
Related Bills:	**AB 15 (Fuentes)** **AB 50 (Nava)**		

BILL SUMMARY

Among other things, this bill would allow persons whose homes were destroyed in wildfires in Orange and Riverside Counties that occurred in November 2008 to retain the homeowners' exemption on their property while they are in the process of rebuilding.

This bill also provides one-year state reimbursement to backfill any property tax revenue loss resulting from assessment reductions related to this disaster.

ANALYSIS

CURRENT LAW

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2009 is not eligible for the homeowners' exemption on the 2009-10 property tax bill.[1]

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing these provisions. These provisions apply to both governor-declared disasters and site-specific disasters such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize the loss in a property's market value. The loss in value must be at least $10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property

[1]A home destroyed on or after January 1, 2009, would continue to be eligible for the exemption on the 2009-10 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2010, it would not be eligible for the homeowners' exemption on the 2010-11 property tax bill.

retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one year's property tax revenue loss associated with Section 170 reductions in assessment.

PROPOSED LAW

Homeowners' Exemption. Related to the November 2008 wildfire in Orange and Riverside Counties for which the Governor issued a proclamation of a state of emergency, this bill adds subdivision (v) to Section 218 to provide that any dwelling that qualified for the homeowners' exemption prior to November 15, 2008, that was damaged or destroyed by the wildfires and any other related casualty that occurred as a result of this disaster and that has not changed ownership since November 15, 2008, shall not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the wildfires.

State Reimbursement. This bill also provides state reimbursement for property tax revenue losses due to Section 170 disaster relief reassessments. Specifically, it adds provisions to the Revenue and Taxation Code that outline the process and timeline to be followed by the affected counties, the Department of Finance, and the State Controller.

IN GENERAL

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short term and the long term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences. The various provisions in the Revenue and Taxation Code are noted below.

DISASTER RELIEF REFERENCE CHART

Section	Property Type	Type of Relief Available	Type of Disaster
170	All property types	Reassessment	Any disaster or calamity
194 & 194.1	Real property and manufactured homes	Property tax deferral – next installment	Governor-proclaimed
195.1	Real property and manufactured homes	Property tax deferral – second consecutive installment	Governor-proclaimed
194.9	Real property and manufactured homes	Property tax deferral – supplemental assessment	Governor-proclaimed
69	All property types	Base year value transfer	Governor-proclaimed

Section	Property Type	Type of Relief Available	Type of Disaster
69.3	Principal place of residence	Base year value transfer	Governor-proclaimed
69.5	Principal place of residence —over 55 or physically disabled	Base year value transfer	Any disaster or calamity
172 & 172.1	Manufactured home	Base year value transfer	Governor-proclaimed
70	Real property only	New construction exclusion	Any disaster or calamity
5825	Manufactured home	New construction exclusion; Base year value transfer	Any disaster or calamity

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the table below, will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Disaster	Year	Legislation
Fire, Wind, Storms – Multiple Counties	2008	Stats. 2008, Ch. 386 (SB 1064)
Zaca Fire – Santa Barbara and Ventura	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch.1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

1. **Sponsor and Purpose.** The author is sponsoring this measure to provide some financial relief to persons whose homes were damaged or destroyed as a result of fires occurring in November 2008 in Orange and Riverside Counties and provide property tax revenue backfill to affected local governments.
2. **Amendments.** The **February 18, 2009** amendments extended the provisions of this bill to include Riverside County. As introduced this bill was limited to Orange County while the proclamation issued by the Governor also included Riverside County.
3. **Proclamations.** On November 15, 2008, the Governor issued a proclamation of a state of emergency for Orange and Riverside Counties for a fire that started on November 15, 2008.
4. **This bill would allow homeowners whose residences were damaged or destroyed as a result of the fire to retain the homeowners' exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the lien date (January 1, 2009) are technically ineligible for the exemption for the upcoming fiscal year under current law.
5. **The Board advises county assessors that damaged homes may keep the exemption but totally destroyed homes may not.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents are available at www.boe.ca.gov select "Property Tax."
6. **Related Bills.** AB 15 (Fuentes) and AB 50 (Nava) propose similar provisions for other fires occurring in October and November 2008 in Los Angeles County and Santa Barbara County, respectively.

COST ESTIMATE

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes. These costs are estimated to be under $10,000.

REVENUE ESTIMATE

The revenue estimate is limited to the property tax provisions of this bill.

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

Homeowners' Exemption Subvention. Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners exemption for those properties temporarily vacated for repairs. Therefore, damaged properties were not factored into the revenue estimate.

Based on the information from the counties, we estimate that approximately 100 homes were totally destroyed.

County	Destroyed Homes	Exemptions (# x $7,000)	2006-07 Average Tax Rate	2008-09 Subvention
Orange	86	$602,000	1.045%	$6,291
Riverside	14	98,000	1.082%	1,060
TOTALS	**100**	**$700,000**		**$7,351**

Property Tax Reimbursement for Property Tax Losses. In addition, the County of Orange estimates an assessed value of $59.2 million in property damaged or destroyed by the fires that occurred in the county during November 2008. This bill would provide Orange County a state allocation of $618,640 ($59.2 million x 1.045%, the average tax rate) for the loss in assessed value. The County of Riverside estimates an assessed value of $1.6 million in property damaged or destroyed by fires that occurred in the county during November 2008. This bill would provide Riverside County a state allocation of $17,312 ($1.6 million x 1.082%, the average tax rate) for the loss in assessed value.

REVENUE SUMMARY

	Revenue Loss
Homeowners' Exemption Subvention	$ 7,351
Property Tax Revenue Loss Reimbursement	635,952
Total	**$ 643,303**

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